

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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	:	
UNITED STATES OF AMERICA	:	
- v. -	:	CONSENT PRELIMINARY ORDER
	:	OF FORFEITURE AS TO
	:	<u>SPECIFIC PROPERTY</u>
RASHIEM COUNCIL,	:	
	:	S1 22 Cr. 49 (PAE)
Defendant.	:	
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WHEREAS, on or about October 3, 2022, RASHIEM COUNCIL (the “Defendant”), among others, was charged in one count of a two-count Superseding Information, S1 22 Cr. 49 (PAE) (the “Information”), with being in possession of firearms and ammunition while employed by a convicted felon, in violation of Title 18, United States Code, Section 922(h)(1) (Count Two);

WHEREAS, the Information included a forfeiture allegation as to Count Two of the Information, seeking forfeiture to the United States, pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28, United States Code, Section 2461(c), of any and all firearms and ammunition involved in or used in the offense charged in Count Two of the Information, including but not limited to:

- a. a P80 9mm pistol with serial number 259083;
- b. Fourteen (14) Belom 9mm cartridges;
- c. a Charter Arms .38 caliber silver revolver with serial number 46002;
- d. five (5) Tulommo .38 caliber cartridges;
- e. a JA9 9mm black pistol with serial number 259074; and
- f. Twelve (12) 9mm cartridges

WHEREAS, on or about October 3, 2022, the Defendant pled guilty to Count Two of the Information, pursuant to a plea agreement with the Government, wherein the Defendant

admitted the forfeiture allegation with respect to Count Two of the Information and agreed to forfeit to the United States, pursuant to Title 18, United States Code, Section 924(d)(1) and Title 28 United States Code, Section 2461(c), of all right, title, and interest of the Defendant in, among other items, the following specific property seized on or about January 11, 2022 in Bronx, New York:

- a. a P80 9mm pistol with serial number 259083 (the “P80 Pistol),
- b. a black glock magazine (“Magazine-1”),
- c. Fourteen (14) Belom 9mm cartridges recovered from the Magazine-1,
- d. a Belom 9mm cartridge recovered from the chamber of the P80 Pistol,
- e. a Charter Arms .38 caliber silver revolver with serial number 46002 (the “Revolver”),
- f. Five (5) Tulommo .38 caliber cartridges recovered from the Revolver,
- g. a JA9 9mm black pistol with serial number 259074 (the “JA9 Pistol”), and a magazine recovered from the JA9 Pistol (“Magazine-2”),
- h. Twelve (12) 9mm cartridges recovered from inside Magazine-2, and
- i. a Luger 9mm cartridge recovered from the chamber of the JA9 Pistol

(a. through i., collectively, the “Specific Property”);

WHEREAS, the Defendant consents to the forfeiture of all his right, title, and interest in the Specific Property, which constitute firearms and ammunition involved in or used in the offense charged in Count Two of the Information; and

WHEREAS, pursuant to Title 21, United States Code, Section 853(g), and Rules 32.2(b)(3), and 32.2(b)(6) of the Federal Rules of Criminal Procedure, the Government is now entitled, pending any assertion of third-party claims, to reduce the Specific Property to its

possession and to notify any and all persons who reasonably appear to be a potential claimant of their interest herein;

IT IS HEREBY STIPULATED AND AGREED, by and between the United States of America, by its attorney Damian Williams, United States Attorney, Assistant United States Attorney Sarah L. Kushner, of counsel, and the Defendant and his counsel, Neil Peter Kelly, Esq., that:

1. As a result of the offense charged in Count Two of the Information, to which the Defendant pled guilty, all of the Defendant's right, title and interest in the Specific Property is hereby forfeited to the United States for disposition in accordance with the law, subject to the provisions of Title 21, United States Code, Section 853.

2. Pursuant to Rule 32.2(b)(4) of the Federal Rules of Criminal Procedure, this Consent Preliminary Order of Forfeiture as to Specific Property is final as to the Defendant RASHIEM COUNCIL, and shall be deemed part of the sentence of the Defendant, and shall be included in the judgment of conviction therewith.

3. Upon entry of this Consent Preliminary Order of Forfeiture as to Specific Property, the United States (or its designee) is hereby authorized to take possession of the Specific Property and to hold such property in its secure custody and control.

4. Pursuant to Title 21, United States Code, Section 853(n)(1), Rule 32.2(b)(6) of the Federal Rules of Criminal Procedure, and Rules G(4)(a)(iv)(C) and G(5)(a)(ii) of the Supplemental Rules for Certain Admiralty and Maritime Claims and Asset Forfeiture Actions, the United States is permitted to publish forfeiture notices on the government internet site, www.forfeiture.gov. This site incorporates the forfeiture notices that have been traditionally published in newspapers. The United States forthwith shall publish the internet ad for at least

thirty (30) consecutive days. Any person, other than the Defendant, claiming interest in the Specific Property must file a Petition within sixty (60) days from the first day of publication of the Notice on this official government internet web site, or no later than thirty-five (35) days from the mailing of actual notice, whichever is earlier.

5. The published notice of forfeiture shall state that the petition (i) shall be for a hearing to adjudicate the validity of the petitioner's alleged interest in the Specific Property, (ii) shall be signed by the petitioner under penalty of perjury, and (iii) shall set forth the nature and extent of the petitioner's right, title or interest in the Specific Property, the time and circumstances of the petitioner's acquisition of the right, title and interest in the Specific Property, any additional facts supporting the petitioner's claim, and the relief sought, pursuant to Title 21, United States Code, Section 853(n).

6. Pursuant to 32.2 (b)(6)(A) of the Federal Rules of Criminal Procedure, the Government shall send notice to any person who reasonably appears to be a potential claimant with standing to contest the forfeiture in the ancillary proceeding.

7. Upon adjudication of all third-party interests, this Court will enter a Final Order of Forfeiture with respect to the Specific Property pursuant to Title 21, United States Code, Section 853(n), in which all interests will be addressed.

8. Pursuant to Rule 32.2(b)(3) of the Federal Rules of Criminal Procedure, the United States Attorney's Office is authorized to conduct any discovery needed to identify, locate or dispose of forfeitable property, including depositions, interrogatories, requests for production of documents and the issuance of subpoenas.

9. The Court shall retain jurisdiction to enforce this Consent Preliminary Order of Forfeiture as to Specific Property, and to amend it as necessary, pursuant to Rule 32.2 of the Federal Rules of Criminal Procedure.

10. The signature page of this Consent Preliminary Order of Forfeiture as to Specific Property may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.

AGREED AND CONSENTED TO:

DAMIAN WILLIAMS
United States Attorney for the
Southern District of New York

By: 

Sarah L. Kushner
Assistant United States Attorney
One St. Andrew's Plaza
New York, NY 10007
(212) 637-2676

10/3/22
DATE

RASHIEM COUNCIL

By: 

RASHIEM COUNCIL

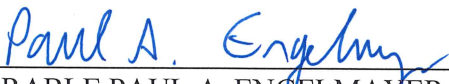
10/3/22
DATE

By: 

Neil Peter Kelly, Esq.
Attorney for Defendant
Federal Defenders of New York
52 Duane Street, 10th Floor
New York, NY 10007

10/3/2022
DATE

SO ORDERED:


HONORABLE PAUL A. ENGELMAYER
UNITED STATES DISTRICT JUDGE

10/3/2022
DATE